

REMARKS

Reconsideration of this application is respectfully requested. Claim 1 has been amended to change the transitional phrase "comprising" to "consisting essentially of". Claims 30 and 31 have been added. Support for claims 30 and 31 is found at, for example, original claims 17 and 18. Therefore, claims 1-31 are pending and at issue.

Claims 1-6, 8-23, and 27 have been rejected under 35 U.S.C. §102(a) as anticipated by U.S. Patent No. 6,485,703 issued to Cote et al. (Cote).

Claim 1 has been amended to include the transitional phrase "consisting essentially of". Cote discloses the use of hydrogel particles which undergo a measurable change in at least one electrochemical or optical property as a function of interaction with one or more substances to be detected (Cote, column 5, line 65, to column 6, line 1). In contrast, the viscosity changing polymers of the present invention do not change as a function of interaction with substances to be detected (analytes). Rather, a dye which simulates a known amount of an analyte is used with the viscosity changing polymer. If the viscosity changing polymer interacted with an analyte contained in the standard, the overall composition would not simulate the analyte and, therefore, would fail to be an effective standard. Accordingly, the inclusion of hydrogel particles as taught in Cote would affect the basic and novel characteristics of the present invention. Since such ingredients are excluded by pending claim 1, Cote does not anticipate claims 1-6 and 8-16.

Cote does not disclose or suggest a process for preparing a standard, or a process for preparing a container for calibrating an instrument, comprising gelling a mixture. Therefore, Cote does not anticipate claims 17-23 and 27.

Claims 1-29 have rejected under 35 U.S.C. §103(a) as obvious over Cote in view of U.S. Patent No. 6,077,669 issued to Little et al. (Little).

As discussed above, Cote requires the inclusion of hydrogel particles, which interact with substances to be detected, in the samples to be tested. Cote does not disclose or suggest a standard which is free of such particles as required by pending claims 1-16, 28, and 29.

Little discloses a reagent formulation for real time fluorescence detection assays including nucleic acid primers and a fluorescently labeled binding partners. Little does not disclose or suggest a standard consisting essentially of a viscosity changing polymer and a dye as recited in pending claims 1-16, 28, and 29.

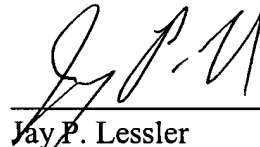
Cote and Little also do not disclose or suggest a process for preparing a standard, or a process for preparing a container for calibrating an instrument, comprising gelling a mixture as recited in pending claims 17-27.

For the foregoing reasons, Cote alone or in combination with Little fails to render obvious claims 1-29. Accordingly, applicants respectfully request withdrawal of this rejection.

In view of the above remarks, it is respectfully requested that the application be reconsidered and that all pending claims be allowed and the case passed to issue.

If there are any other issues remaining which the Examiner believes could be resolved through either a Supplemental Response or an Examiner's Amendment, the Examiner is respectfully requested to contact the undersigned at the telephone number indicated below.

Respectfully submitted



Jay P. Lessler
Reg. No. 41,151
Attorney for Applicants

DARBY & DARBY
Post Office Box 5257
New York, NY 9350-5257
Phone (212) 527-7700